

Minutes of: PLANNING COMMISSION
Time of Meeting: 6:00 p.m.
Date of Meeting: May 2, 2007
Place of Meeting: COUNCIL CHAMBERS

CALL TO ORDER

Planning Commission Chairperson Baker called the Regular Meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Segall led the Pledge of Allegiance.

ROLL CALL

Present: Chairperson Baker and Commissioners Cardosa, Montgomery, Dominguez, Douglas, and Segall

Absent: Commissioner Whitton

Staff Present: Don Neu, Planning Director
Debbie Fountain, Housing and Redevelopment Director
Ron Kemp, Deputy City Attorney
Bob Johnson, Deputy City Engineer
Jim Weigand, Fire Marshal
Michele Masterson, Senior Management Analyst
John O'Donnell, Senior Engineer
Barbara Kennedy, Associate Planner
Clyde Wickham, Associate Engineer
Steve Jantz, Associate Engineer
Andrea Groves, Junior Planner
Michelle Lenkowski, Minutes Clerk

PROCLAMATION

Chairperson Baker gave a brief presentation thanking Commissioner Segall for his years of service to the Commission.

APPROVAL OF MINUTES

MOTION

ACTION: Motion by Commissioner Dominguez, and duly seconded, to approve the minutes of the Regular Meeting of April 18, 2007.

VOTE: 4-0-3

AYES: Chairperson Baker and Commissioners Dominguez, Douglas, and Segall

NOES: None
ABSTAIN: Commissioners Cardoso and Montgomery
ABSENT: Commissioners Whitton

COMMENTS FROM THE AUDIENCE ON ITEMS NOT LISTED IN THE AGENDA.

None.

PUBLIC HEARINGS

1. **PCD/GPC 07-01 – CAPITAL IMPROVEMENT PROGRAM BUDGET 2007-2008 –**
Request for a Planning Commission Determination of General Plan Consistency for the proposed Fiscal Year 2007-2008 Capital Improvement Program Budget.

Planning Director Don Neu introduced Agenda Item 1 and stated Junior Planner Andrea Groves would make the Staff presentation.

Chairperson Baker asked Ms. Groves if she wished to continue with only six Commissioners present. Ms. Groves confirmed that she would.

Chairperson Baker opened the Public Hearing on Agenda Item 1.

Ms. Groves gave a brief presentation and stated Staff would be available to answer any questions.

Chairperson Baker asked if the Commission had any questions of Staff.

Commissioner Dominguez disclosed that his wife is a Board Member of the Friends of Cabrillo Ranch.

Chairperson Baker asked if any member of the audience wished to address Agenda Item 1; seeing none, she opened and closed public testimony.

MOTION

ACTION: Motion by Commissioner Cardoso, and duly seconded, that the Planning Commission adopt Planning Commission Resolution No. 6302 approving PCD/GPC 07-01 based upon the findings contained therein.

VOTE: 6-0-1

AYES: Chairperson Baker and Commissioners Cardoso, Montgomery, Dominguez, Douglas, and Segall

NOES: None

ABSENT: Commissioner Whitton

Chairperson Baker closed the Public Hearing on Item 1 and asked Mr. Neu to introduce the next item.

2. GPA 05-06/ZC 05-03/LCPA 05-03/HMP 06-12/CT 03-10/SDP 05-05/HDP 03-05/CDP 03-32 – AURA CIRCLE – Request for a recommendation of approval for adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; a recommendation of approval for a General Plan Amendment, Zone Change, Local Coastal Program Amendment, Habitat Management Plan Permit, Site Development Plan, Hillside Development Permit, and Coastal Development Permit; and a request for approval of a Tentative Tract Map for the subdivision, grading and development of a 15.02-acre site into nine (9) residential lots and two (2) open space lots, including the construction of nine single-family residences and two second dwelling units on property generally located west of Kelly Drive and north of Hillside Drive at the terminus of Aura Circle within the Mello II Segment of the Local Coastal Program and Local Facilities Management Zone 1.

Mr. Neu introduced Agenda Item 2 and stated Associate Planner Barbara Kennedy would make the Staff presentation.

Chairperson Baker asked the applicant if he wished to continue with only six Commissioners present. The applicant confirmed that he would.

Chairperson Baker opened the Public Hearing on Agenda Item 2.

Ms. Kennedy gave a brief presentation and stated Staff would be available to answer any questions.

Chairperson Baker asked if the Commission had any questions of Staff.

Commissioner Montgomery questioned the revegetation plans for the site and the possible effect this may have on the fire protection zones. In particular, three structures located to the north of the project and the lush vegetation that exists at the location.

Ms. Kennedy explained the City's policy requiring the applicant to provide fire suppression around new structures, but not existing structures. She added that she would defer to Fire Marshal Jim Weigand to address specific concerns about fire suppression zones.

Fire Marshall Weigand gave a brief overview of possible vegetation burn patterns and reviewed the City's policy regarding habitat and mitigation measures being taken with this project.

Commissioner Segall asked about the second dwelling units associated with this project.

Ms. Kennedy stated she would defer to the Housing and Redevelopment Director Debbie Fountain to address concerns related to the City's affordable housing requirements.

Ms. Fountain addressed the question regarding the issue of the second dwelling units being used as an affordable housing site. She added the City cannot require a private residence to be rented out and explained the deed restrictions placed on inclusionary second dwelling units.

Ms. Fountain briefly explained the concept of inclusionary housing and restrictions the City has on enforcing any particular living arrangement.

Chairperson Baker asked if it would be feasible to revisit the issue of inclusionary housing ordinance in the northwest quadrant and its' effectiveness on meeting the current housing needs.

Commissioner Segall stated a precedent has been set regarding housing-in-lieu fees.

Chairperson Baker asked if there were any further questions for Staff; seeing none, she asked if the applicant wished to give a presentation.

Jack Henthorn, 5365 Avenida Encinas, Suite A, Carlsbad, gave a brief presentation and stated he would be available to answer any questions the Commission may have.

Chairperson Baker asked if the Commission had any questions for the applicant.

Commissioner Dominguez questioned the applicant regarding current ownership of the property and encroachments on the site. Mr. Henthorn explained the position of the applicant and plans for dealing with those areas of the site.

Commissioner Segall asked about the non-combustible fence as indicated in the Staff Report. Mr. Henthorn explained the nature of the fencing and Ms. Kennedy explained the proposed locations of various fencing materials.

Fire Marshall Weigand addressed some of the Commission's questions regarding the fire suppression zone, the walls required to be constructed, and access to the vegetation areas on the site.

Commissioner Dominguez asked Staff about an alluvial compilation at the site and whether it might necessitate further regulatory geophysical inspection. Clyde Wickham, Associate Engineer addressed those concerns specifically.

Chairperson Baker asked about the color of the chain link fence surrounding the development. Mr. Henthorn stated it would be a black vinyl, chain-link fence.

Chairperson Baker asked about the grading efforts and if the adjacent properties would be notified. Mr. Henthorn stated the homeowners would be notified and the developer is very sensitive to the neighborhood concerns.

Commissioner Douglas asked about wildlife issues and pending surveys. Mr. Henthorn explained the fencing and its ability to allow wildlife to pass while prohibiting humans to pass.

Commissioner Cardosa asked for an explanation of the floor-plan and amenities of the inclusionary housing units. Mr. Henthorn stated they would be studio style units intended for one or two individuals.

Chairperson Baker asked if there were any further questions of the applicant; seeing none, she asked if there were any members of the audience who wished to speak on Agenda Item 2 and opened public testimony.

Jim Barton, 4925 Avila Avenue, Carlsbad, stated he resides on the second lot from Aura Circle. He asked about the 50-foot high cut slope that is planned for this location.

Janet Hu, 4937 Avila Avenue, Carlsbad, stated she resides at one of the properties adjacent to the proposed development. She asked about any planned easements for the neighbors. Ms. Hu asked about fire safety issues with a shed that is currently in place on her property.

Chairperson Baker asked Ms. Hu if she was aware of the encroachments into the adjacent property when she purchased her property. Ms. Hu stated that initially she was not, but it was revealed during the escrow process. She added that the owners at that time claimed to have no knowledge of any encroachments.

Marina Jennings, 4933 Avila Avenue, Carlsbad, stated she resides adjacent to the proposed development. She asked about a possible easement and fire issues. Ms. Jennings stated she would like to open discussion with the applicant regarding the chain-link fence.

Ramon Campbell, 2024 Aura Circle, stated he resides next to the proposed development and the upper part of the hill near his lot had an existing fence when he purchased his lot through a bank repossession sale. He stated he is concerned about the new proposed chain link fence. Mr. Campbell stated when he purchased his property, he was not aware that the entire area inside his fence is would not become his. He is concerned about drainage issues from the open space area.

Chairperson Baker asked if there were any further questions; seeing none, she closed public testimony.

Mr. Henthorn addressed some of the questions from the public, including prescriptive easements, chain-link fencing, drainage, and fire safety issues.

Commissioner Douglas asked for an explanation of a prescriptive easement. Deputy City Attorney Ron Kemp gave a brief overview and stated an individual would need to address this issue with their attorney.

Commissioner Dominguez asked for further explanation of the plans for drainage issue at the site. Mr. Wickham explained the general drainage plan for the site.

Commissioner Montgomery asked about soil issues associated with the development. Mr. Wickham stated there have been several geotechnical surveys conducted and after further grading, this issue will be reviewed.

Commissioner Montgomery stated he has reservations and questions regarding the boundaries of the site and the impact to the Habitat Management Plan (HMP) hardlines. He asked about fire suppression zones and the required plantings being located close to the existing structures on the property. Mr. Henthorn gave a brief explanation of his understanding of the requirements imposed by statute.

Discussion ensued regarding the boundary issues and the HMP hardlines.

Commissioner Segall asked about the project and any possible prescriptive easements that may be granted in the future. He questioned what effect that would have on the project considering the habitat and HMP hardline. Mr. Kemp gave a brief explanation of a prescriptive easement and deferred to Mr. Neu to explain the effect on this particular project.

Mr. Neu addressed the HMP hardline issues related to this project and projected scenarios in the event that an easement was granted.

Discussion ensued regarding the issues related to the revegetation of the open space area at the site.

Mr. Kemp stated Staff only has the ability to review the proposal as it is with the property rights as they currently exist. It is not in the purview of the Commission to speculate whether a prescriptive right exists or not.

Commissioner Segall expressed concern with the revegetation plan and Commissioner Montgomery concurred.

MOTION

ACTION: Motion by Commissioner Cardoso, and duly seconded, that the Planning Commission adopt Planning Commission Resolution No. 6285 recommending adoption of a Mitigated Negative Declaration; adopt Planning Commission Resolutions No. 6286, 6287, 6288, 6289, 6291, 6292 and 6293 recommending approval of a General Plan Amendment (GPA 05-06), Zone Change (ZC 05-03), Local Coastal Program Amendment (LCPA 05-03), Habitat Management Plan Permit (HMP 06-12), Site Development Plan (SDP 05-05), Hillside Development Permit (HDP 03-05), and Coastal Development Permit (CDP 03-32), and adopt Planning Commission Resolution No. 6290 approving a Tentative Tract Map (CT 03-10), based on the findings and subject to the conditions contained therein.

DISCUSSION

Commissioner Segall stated he supports the project, but has remaining concerns about the wildlife issue that were raised in the discussion at this hearing.

Commissioner Douglas stated she supports the project, but has concerns regarding the second dwelling units planned for this project.

Commissioner Dominguez stated he believes this project signifies problems associated with future development in the infill areas of the City. He added he will support the project and concurs with both Commissioner Segall and Douglas.

Chairperson Baker stated she sees that several Commissioners have expressed concerns regarding the issue of second dwelling units in lieu of inclusionary housing credits. She added the matter can be addressed in one of several ways. The Commission could make a minute motion, motion to include the issue on a future Planning Commission agenda for further discussion, or motion to forward the item to a City Council Workshop for review. She stated this matter should be cleared before any other action is taken.

Commissioner Montgomery stated he can support the project with the condition that the issues regarding habitat be addressed. He stated he has a differing opinion regarding the second

dwelling units. He added he feels it would be a foolish to eliminate the use of the secondary dwelling unit in lieu of paying for an affordable housing credit.

Commissioner Cardoso stated he encourages the applicant to continue to work closely with the wildlife agencies and the neighbors in the area. He added he recognized the inherent difficulties with the project, but supports it.

Chairperson Baker stated she supports the project. She asked Commissioner Montgomery if he wanted to add a condition to the project regarding fire suppression.

Commissioner Montgomery stated the proposed change to the Condition should read, "30-foot setback from the property line of low density, low-fuel plantings."

Mr. Neu stated the language would be added to the landscape Condition 17, Resolution 6290.

Chairperson Baker stated the intent is that the plant pallet on the north side of the project includes low-fuel natural coastal sage.

MOTION

ACTION: Motion by Commissioner Montgomery, and duly seconded, that the Planning Commission amend the Conditions of Approval.

VOTE: 6-0-1

AYES: Chairperson Baker and Commissioners Cardoso, Montgomery, Dominguez, Douglas, and Segall

NOES: None

ABSENT: Commissioner Whitton

VOTE

VOTE: 6-0-1

AYES: Chairperson Baker and Commissioners Cardoso, Montgomery, Dominguez, Douglas, and Segall

NOES: None

ABSENT: Commissioner Whitton

Chairperson Baker closed the Public Hearing on Item 2.

Chairperson Baker stated the Commission could make a minute motion regarding the issue of second dwelling units, motion to include the issue on a future Planning Commission agenda for further discussion, or motion to forward the item to a City Council Workshop for review.

MOTION

ACTION: Motion by Commissioner Dominguez, and duly seconded, that the Planning Commission include Second Dwelling Units as inclusionary housing and the effectiveness of that use on a future Planning

Commission Agenda for discussion.

VOTE: 5-1-1

AYES: Chairperson Baker and Commissioners Cardoso, Dominguez, Douglas, and Segall

NOES: Commissioner Montgomery

ABSENT: Commissioner Whitton

COMMISSIONER COMMENTS

Commissioner Segall asked what the final outcome was for the issue of 8-foot widths for garage doors. Mr. Neu stated the matter was forwarded to City Council for review and it was returned with the recommendation that the Planning Commission review the matter and provide a Resolution of Intention when it is returned in the future.

Commissioner Montgomery thanked Commissioner Segall for his service to the Commission.

PLANNING DIRECTOR COMMENTS

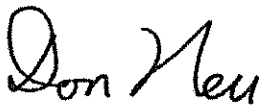
Mr. Neu stated the draft Housing Element was presented to the Housing Commission for feedback to submit to HCD for approval. This was unsuccessful and further revisions are required prior to returning for a recommendation. Staff plans to make those changes and return in the near future.

CITY ATTORNEY COMMENTS

None.

ADJOURNMENT

By proper motion, the Regular Meeting of the Planning Commission of May 2, 2007, was adjourned at 7:52 p.m.



DON NEU
Planning Director

Michelle Lenkowski
Minutes Clerk